

DATED \_\_\_\_\_ 20[ ]]

[LANDLORD]

and

[ACADEMY TRUST]

Draft - [ ]]

LEASE

Property :- [ ]]

Term :- [ ]] years

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## LAND REGISTRY REQUIRED WORDING FOR PRESCRIBED CLAUSES LEASE<sup>1</sup>

**LR1. Date of lease** 201[ ]

*[Use following format eg 26 June 2006]*

**LR2. Title number(s)** **LR2.1 Landlord's title number(s):-**

[ ]

*[Insert title numbers(s) out of which this Lease is granted] OR*

[None]

**LR2.2 Other title number(s):-**

[ ]

*[Insert existing title number(s) (except for those specified in LR2.1) against which entries of matters referred to in LR9, LR10, LR11 and LR13 are to be made] OR*

[None]

**LR3. Parties to this Lease**

*[Give full names, addresses and company's registered number, if any, of each of the parties. For Scottish companies use a SC prefix and for limited liability partnerships use an OC prefix. For foreign companies give territory in which incorporated]*

**Landlord**

[ ] [whose registered office is at] [of] [ ]  
(Company Registration Number [ ])

**Tenant**

[ ] [whose registered office is at] [of] [ ]  
(Company Registration Number [ ])

**Surety<sup>2</sup>**

[ ] [whose registered office is at] [of] [ ]  
(Company Registration Number [ ])

**[Other parties]**

*[Specify capacity of each party, eg management company OR delete]*

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<sup>1</sup> The provisions that follow designated with LR reference numbers are clauses prescribed by the Land Registry, which must be inserted at the beginning of the lease. These cannot be amended/deleted, save in relation to site specific information which will be inserted at the time of negotiation of the lease. Where terms and expressions are not relevant to the body of the lease the word "None" will be inserted in the space underneath.

<sup>2</sup> This will not apply

- LR4. Property**  
**(referred to in the remainder of this Lease as the "Property")**
- In the case of a conflict between this clause and the remainder of this lease then for the purposes of registration, this clause shall prevail*
- Please see the definition of "Property" in clause 1.1
- LR5. Prescribed statements etc**
- [None]
- OR
- [LR5.1]** [LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003:-
- [If this Lease includes a statement falling within LR5.1, insert here the relevant statement or refer to the clause, Schedule or paragraph of a Schedule in this Lease which contains the statement. See [PRESCRIBED STATEMENTS LRR 2003] for the wording of these statements]]*
- [LR5.2]** [This Lease is made under, or by reference to, provisions of:-
- Leasehold Reform Act 1967
- Housing Act 1985
- Housing Act 1988
- Housing Act 1996]
- [Omit or delete those Acts which do not apply to this Lease]
- LR6. Term for which the Property is leased**  
**(referred to in the remainder of this Lease as the "Term")**
- [Include only the appropriate statement from the following options
- NOTE:- The information you provide, or refer to, here will be used as part of the particulars to identify the lease under rule 6 of the Land Registration Rules 2003]
- [From and including [                      ]
- To and including [                      ]]
- OR
- [The term is as follows:-
- [[number of years] from and including [                      ]]

**LR7. Premium<sup>3</sup>**

[None]

OR

[[ ] pounds (£[ ]) plus VAT of [ ] pounds (£[ ])]

**LR8. Prohibitions or restrictions on disposing of this Lease**

*[Include whichever of the two statements is appropriate. Almost inevitably the first option will apply. Do not set out here the wording of the provision]*

[This Lease contains a provision that prohibits or restricts dispositions]

OR

[This Lease does not contain a provision that prohibits or restricts dispositions]

**LR9. Rights of acquisition etc**

**LR9.1** Tenant's contractual rights to renew this Lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land:-

[None]

OR

[The right(s) referred to in [clause [ ] of] [[paragraph [ ] of] Schedule [ ] to] this Lease]

**LR9.2** Tenant's covenant to (or offer to) surrender this Lease:-

[None]

OR

[The covenant referred to in [clause [ ] of] [[paragraph [ ] of] Schedule [ ] to] this Lease]

**LR9.3** Landlord's contractual rights to acquire this Lease:-

[eg right of pre-emption]

[None]

OR

[The right(s) referred to in [clause [ ] of] [[paragraph [ ] of] Schedule [ ] to] this Lease]

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<sup>3</sup> This will not apply

] of] Schedule [ ] to] this Lease]

**LR10. Restrictive covenants given in this Lease by the Landlord in respect of land other than the Property**

[None]

OR

[The restrictive covenant(s) contained in [clause [\_\_\_\_] of] [[paragraph [\_\_\_\_] of] schedule [\_\_\_\_] to] this Lease]

**LR11. Easements**

**LR11.1** Easements granted by this Lease for the benefit of the Property:-

[The easement(s) set out in [ ] to this Lease]

OR

[None]

**LR11.2** Easements granted or reserved by this Lease over the Property for the benefit of other property

[The easement(s) set out in [ ] to this Lease]

OR

[None]

**LR12. Estate rentcharge burdening the Property**

[This only applies to rentcharges created by this Lease]

[None]

OR

[The rentcharge set out in [clause [ ] of] [[paragraph [ ] of] Schedule [ ] to] this Lease]

**LR13. Application for standard form of restriction**

[None]

OR

*[Set out the full text of the standard form of restriction and the title against which it is to be entered. If you wish to apply for more than one standard form of restriction use this clause to apply for each of them, state who is applying against which title and set out the full text of the restriction you are applying for. Standard forms of restriction are set out in schedule 4 to the Land Registration Rules 2003. N.B. Do not use if the restriction is not in standard form; complete form RX1 instead]*

[The Parties to this Lease apply to enter the following

standard form of restriction [against the title of the Property] or [against title number [ ]]:-

no disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by The Secretary of State for Education of Sanctuary Buildings, Great Smith Street, London SW1P 3BT

**LR14. Declaration of trust where there is more than one person comprising the Tenant**

*[If the Tenant is one person or body]*

[Not applicable]

OR

*[If the Tenant is more than one person, complete by deleting all inapplicable alternative statements]*

[The Tenant is more than one person. They are to hold the Property on trust for themselves as joint tenants]

OR

[The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants in common in equal shares]

OR

[The Tenant is more than one person. They are to hold the Property on trust [complete as necessary]]

THIS LEASE is made the       day of       201[ ] BETWEEN:-

(1)     [LANDLORD] of [       ] ("the Landlord"); and

(2)     [ACADEMY TRUST] (Company No [       ]) whose registered office is at [       ] ("the Tenant").

NOW IT IS HEREBY AGREED as follows:-

## **PART A - PRELIMINARY**

### **1. DEFINITIONS AND INTERPRETATION**

1.1     In this Lease unless the context otherwise requires the following words and expressions shall have the following meanings:-

"Academy"	an Academy falling within the description contained in Section 1 (10) Academies Act 2010;
"Amenities"	drainage, water, gas, electricity, telephone and any other services or amenities of like nature;
"Break Date"	each of the 25 <sup>th</sup> , 50 <sup>th</sup> , 75 <sup>th</sup> and 100 <sup>th</sup> anniversaries of the date of this lease;
"Break Notice"	written notice to terminate this lease;
"Conduits"	gutters, gullies, pipes, sewers, drains, watercourses, channels, ducts, flues, wires, aerials, cables, mains, cisterns, tanks and all other conducting media, together with all meters and other apparatus used in connection with them;
["Contaminated Land Regime"]	the contaminated land regime under Part 2A of the Environmental Protection Act 1990 (as amended from time to time) and any statutory instrument, circular or guidance issued under it;]
"End Date"	the date that falls 90 working days after the Funding Termination Date;
["Enforcing Authority"]	the relevant regulator for the Property under the Contaminated Land Regime;]
["Environment"]	the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media;]
"Environment Acts"	the Environmental Protection Act 1990, the Environment Act 1995, the Water Resources Act 1991, the Water Industry Act 1991 and any other Law or Laws of a similar



	nature in force at any time during the Term;
["Environmental Law"	all applicable laws, statutes, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes (as amended from time to time) in so far as they relate to the protection of the Environment;]
"Fixtures and Fittings"	all fixtures and fittings in or upon the Property to include plant and machinery, lifts, boilers, central heating, air conditioning, lighting, plumbing, sanitary and sprinkler systems, [hardware and cabling of computer systems] and any other apparatus from time to time in or upon the Property;
"Funding Agreement"	<p>(a) an agreement pursuant to [Section 1 of the Academies Act 2010] made between (1) the Secretary of State for Education and (2) the Tenant [supplemental to a Master Funding Agreement made between the same parties]<sup>4</sup>; and</p> <p>(b) any replacement or renewal of such agreement between the same parties and in substantially the same form; and</p> <p>(c) any replacement agreement made between the Tenant and the Secretary of State for Education (or the successor government body which assumes his functions for funding educational organisations of the Tenant's kind) and which provides funding for the Tenant in relation to the operation of educational services at the Property;</p>
"Funding Termination Date"	the date that falls [30] working days after the termination of the Funding Agreement;
["Hazardous Substances"	any material, substance or organism which, alone or in combination with others, is capable of causing harm to the Environment or which is likely to cause an actionable nuisance;]

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<sup>4</sup> These words are only relevant where the Authority and the Academy Trust have an existing Master Funding Agreement in place.

"Insured Risks"	fire, lightning, explosion, earthquake, storm, tempest, flood, subsidence, landslip, heave, impact, terrorism, bursting or overflowing of water tanks and pipes, damage by aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, labour disturbance and malicious damage and such other risks as the Tenant insures against from time to time, subject in all cases to any exclusions or limitations as may from time to time be imposed by the insurers or underwriters, provided that if in respect of any period of time the Tenant is unable to effect insurance against any one or more of such risks upon terms or at a premium which the Tenant considers reasonable then during such period such risk or risks are deemed to be excluded from the definition of "Insured Risks";
"Interest"	interest at the rate of four per cent (4%) per annum above Lloyds TSB plc Base Rate for the time being in force (both before and after any judgment) such interest to be compounded with rests on the usual quarter days or if such Base Rate ceases to be published then at the rate of one (1) per cent per annum above the rate at which the Landlord could reasonably borrow from time to time;
"Landlord's Property"	land and buildings including the Property [registered at the Land Registry under Title Number [        ]] [comprised in the documents set out at Schedule 4];
"Law"	any statute or any order, instrument or regulation made under it or any notice or order issued by a government department the legislative making institutions of the European Union minister or local public regulatory or other authority;
"Lease"	this Lease as varied from time to time, together with any other deed document or agreement at any time during the Term amending supplemental or collateral to it;
"Outgoings"	all present and future rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever (whether parliamentary local or of any other description including capital or non-recurring and including any novel expenses);
"Plan"	the plan <sup>5</sup> annexed to this Lease;
"Planning Acts"	the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory

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<sup>5</sup> Project specific amendment will be required to refer to numbered plan or plans

	Purchase Act 2004 and any other Law or Laws of a similar nature in force at any time during the Term;
["Planning Agreement"]	<p>an agreement or unilateral undertaking under section 106 of 106A of the Town and Country Planning Act 1990, under section 33 of the Local Government (Miscellaneous Provisions) Act 1982, under section 111 of the Local Government Act 1972, under section 38 and/or 278 of the Highways Act 1980 or under section 1 of the Localism Act 2011 or any other relevant statute or regulation which:</p> <p>(a) may be required to be completed in a resolution (or through resolution of an officer through delegated powers) by a local planning or other relevant authority or authorities as a condition precedent to the grant of the planning permission; or</p> <p>(b) is required to enable the Tenant's development works lawfully to be commenced and carried out;]</p>
"Premises Acts"	the Occupiers' Liability Act 1957, the Factories Act 1961, the Offices Shops and Railway Premises Act 1963, the Fire Precautions Act 1971, the Defective Premises Act 1972, the Health and Safety at Work etc Act 1974, the Occupiers' Liability Act 1984 and any other Law or Laws regulating the safety of premises and those occupying or visiting the same in force at any time during the Term;
"President"	the President of the Royal Institution of Chartered Surveyors;
"Property"	the property described in [Part 1] Schedule 1;
"Reinstatement Value"	<p>the full cost of reinstating the Property including:-</p> <p>(a) temporarily making the Property safe and protecting any adjoining structures;</p> <p>(b) debris removal demolition and site clearance;</p> <p>(c) obtaining planning and any other requisite consents or approvals;</p> <p>(d) complying with the requirements of any Law;</p> <p>(e) architects' surveyors' and other fees incurred by the Tenant in relation to the reinstatement;</p> <p>(f) all construction costs;</p> <p>(g) any VAT chargeable on any of the reinstatement costs (save where the Tenant is able to recover such VAT as an input in relation to supplies made</p>

by the Tenant);

"Relevant Secretary of State"	such secretary of state or Minister of the Crown as may be nominated by the Secretary of State for Education to take an assignment of this Lease;
"Rent"	a peppercorn;
["Retained Land"	the adjoining land of the Landlord described in Part 2 Schedule 1;] <sup>6</sup>
"Secretary of State for Education"	the Secretary of State for Education or such other Minister of the Crown who is a successor to such person and who is party to the Funding Agreement with the Tenant at the relevant time;
"Term"	one hundred and twenty five years (125) years from and including the Term Commencement Date;
"Term Commencement Date"	[        ]; <sup>7</sup>
"Termination Date"	the date of expiration or sooner determination of the Term;
"the 1954 Act"	the Landlord and Tenant Act 1954;
"the 1995 Act"	the Landlord and Tenant (Covenants) Act 1995;
"VAT"	Value Added Tax or any equivalent tax which may at any time during the Term be imposed in substitution for it or in addition to it and all references to rents or other sums payable by the Tenant are exclusive of VAT.

## 1.2 In interpreting this Lease:-

- 1.2.1 references to clauses, pages and Schedules are to clauses and pages of and Schedules to this Lease unless stated otherwise
- 1.2.2 the expression "Landlord" includes the person for the time being entitled to the immediate possession of the Property on the expiry of the Term
- 1.2.3 the expression "Tenant" includes the person in whom for the time being the Tenant's interest under this Lease is vested
- 1.2.4 where reference is made to a statute this includes all prior and subsequent enactments amendments and modifications relating to that statute and any subordinate legislation made under such statute

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<sup>6</sup> Delete if not applicable.

<sup>7</sup> Where applicable (principally where a local authority owns the land and is procuring the works) it is envisaged that the lease will be granted following expiry of the Defects Liability Period provided for in the D&B Contract.

- 1.2.5 references to a "person" include any individual firm unincorporated association or body corporate and words importing the singular number include the plural number and vice versa and words importing one gender include all genders
- 1.2.6 if the Tenant is or are at any time more than one person any reference to the Tenant is deemed to refer to each such person and any obligation on the part of the Tenant takes effect as a joint and several obligation
- 1.2.7 any covenant by the Tenant not to carry out any action is to be construed as if it is (where appropriate) additionally a covenant by the Tenant not to permit or suffer such action to be done
- 1.2.8 the words "include" and "including" are to be construed without limitation and in construing this Lease the ejusdem generis principle does not apply and general words are not to be given a restrictive meaning because they are followed by particular examples intended to be embraced by the general words
- 1.2.9 a reference to an act or omission of the Tenant includes an act or omission of any undertenant and any other person deriving title under the Tenant and includes an act or omission of their respective employees and visitors and anyone at the Landlord's Property with the express or implied authority of any one or more of them
- 1.2.10 a reference to the Property includes any part of it except where the word is used in clause 3.12
- 1.2.11 a reference to the end of the Term or to the Termination Date is to the end of the Term however it terminates
- 1.2.12 a consent of the Landlord shall be valid if it is either:-
- (a) given in writing and signed by a person duly authorised on behalf of the Landlord; or
  - (b) (if required by the Landlord after any request for consent from the Tenant but prior to consent being given) it is by deed; and
- if a consent is not by deed it will not affect the Landlord's ability to require that any other consent should be by deed
- 1.2.13 any notice given to the Landlord shall not be valid unless it is in writing
- 1.2.14 the Landlord is entitled to withhold its consent where it requires the corresponding consent of any mortgagee or superior landlord of the Property until it obtains that consent (and the Landlord shall use all reasonable endeavours to obtain such consent and shall ensure that any charges or superior leases created after the date of this Lease shall contain obligations on the mortgagee or superior landlord not unreasonably to withhold or delay consent in circumstances where the Landlord's consent cannot be unreasonably withheld or delayed under this Lease)
- 1.2.15 a right of the Landlord or anyone else to have access to or entry upon the Property extends to any superior landlord and any mortgagee of the Landlord's Property and to anyone authorised by the Landlord or any superior landlord or mortgagee and includes a right of entry with workmen equipment and materials

- 1.2.16 the table of contents and headings to clauses, paragraphs and Schedules do not affect the construction of this Lease
- 1.2.17 a right granted by the Landlord is granted in common with all other persons entitled to it and/or authorised by the Landlord to exercise it
- 1.2.18 a right excepted or reserved to the Landlord is also reserved to any other person entitled to it and/or authorised by the Landlord
- 1.2.19 where the Landlord is entitled to enter the Property on giving notice it is also entitled to enter without notice in emergency and may break and enter if it considers it necessary
- 1.2.20 nothing entitles the Tenant to enforce any obligation given by anyone to the Landlord
- 1.2.21 any person undertaking any obligation under or by virtue of this Lease which is a 'landlord covenant' for the purposes of the 1995 Act does so only in respect of the period of time during which the immediate reversion to this Lease is vested in such person and not further or otherwise
- 1.2.22 any works (whether of repair decoration alteration or otherwise) that the Tenant is permitted or obliged to carry out in accordance with this Lease shall be carried out in accordance with good modern practice
- 1.2.23 a provision of this Lease which is void or unenforceable shall be severed from all other provisions of this Lease and the remaining provisions shall continue to have effect
- 1.2.24 if a provision of this Lease extends beyond the limitations set by any Law or rule of law but if it were not so extended would remain unaffected by the Law or rule of law the provision is deemed to be varied so as not to extend beyond the limitations
- 1.2.25 if any matter is referred to arbitration pursuant to this Lease:-
- (a) it is to be conducted in accordance with the Arbitration Act 1996; and
  - (b) the arbitrator has no power:-
    - (i) to order rectification setting aside or cancellation of this Lease;
    - (ii) to direct that the recoverable costs of the arbitration or any parts of the arbitral proceedings will be limited to a specific amount;
    - (iii) where there are provisions in this Lease for the payment of interest at a specified rate to award interest whether in addition to or in substitution for such interest provisions
- 1.2.26 if any matter in this Lease is to be determined by an arbitrator:-
- (a) he is to be appointed by agreement between the Landlord and the Tenant or at the request and option of either of them is to be nominated by the President;

- (b) if he dies delays or declines to act the President may on the application of either the Landlord or the Tenant discharge him and appoint another to act in his place in the same capacity; and
- (c) if either the Landlord or the Tenant pays his fees and expenses it may recover the proportion (if any) the other party was obliged to pay from that other party as a debt recoverable on demand

1.2.27 wherever and to the extent that any provision of this Lease would or might contravene the provisions of section 25 of the 1995 Act then:-

- (a) such provision is to take effect only in so far as it may do so without contravening section 25 of the 1995 Act (and where such provision extends beyond the limits permitted by section 25 of the 1995 Act that provision is to be varied so as not to extend beyond those limits); and
- (b) where such provision is incapable of having any effect without contravening section 25 of the 1995 Act this Lease is to be construed and interpreted as if such provision were deleted; and
- (c) the legality validity and enforceability of any of the remaining provisions of this Lease is not in any way to be affected or impaired as a result

## 2. **DEMISE RENTS AND OTHER PAYMENTS**

2.1 The Landlord demises the Property to the Tenant for the Term (subject to the provisions for earlier termination contained in this Lease) the Tenant paying therefor by way of rent throughout the Term without any deduction counterclaim or set off (whether legal or equitable) of any nature whatsoever:-

2.1.1 the Rent (if demanded);

2.1.2 all other sums (including VAT) due under this Lease from the Tenant to the Landlord.

2.2 The Property is demised:-<sup>8</sup>

2.2.1 [together with the rights specified in Schedule 2;]

2.2.2 [excepting and reserving to the Landlord and all others now entitled (or who may become entitled) and all others authorised by them (to include any adjoining or neighbouring owners or occupiers) as specified in Schedule 3; and]

2.2.3 subject to and with the benefit of the matters contained or referred to in the documents listed in Schedule 4<sup>9</sup>

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<sup>8</sup> Rights and reservations will only apply if the Landlord retains land or owns adjoining land over which rights are required.

<sup>9</sup> There may be some matters (such as the right to receive overage from land sold off in the past) the benefit of which is not intended to pass to the Tenant and these matters should be specifically excluded if they are within any of the documents listed in Schedule 4.

### 3. **TENANT'S COVENANT**

The Tenant covenants with the Landlord as follows:-

#### 3.1 **Rent and Payments**

to pay the Rent and all other sums reserved as rent by this Lease at the times and in the manner at and in which they are reserved in this Lease

#### 3.2 **Outgoings**

3.2.1 promptly to pay the Outgoings which are now or may during the Term be payable in respect of the Property or its owner or occupier except any payment occasioned by any disposition of or dealing with the ownership of any estate or interest expectant in reversion on the Term [provided always that if any Outgoings are payable in respect of the Retained Land as well as the Property without apportionment to pay a fair and proper proportion of the same to be conclusively determined by the Landlord acting reasonably;]

3.2.2 to pay for all Amenities exclusively used by or available to the Property (including all standing charges);

3.2.3 to observe and perform all present and future regulations and requirements of the authorities or companies supplying or providing the Amenities;

3.2.4 [To pay within 14 days of written demand a reasonable proportion according to use (to be determined by the Landlord acting reasonably) of the costs of maintaining, repairing, inspecting, cleaning, lighting and renewing the access roads and Conduits use of which is permitted under Schedule 2]<sup>10</sup>

#### 3.3 **Repair and Upkeep**

3.3.1 at all times during the Term to keep the Property (including for the avoidance of doubt all buildings structures landscaping and other erections) clean and tidy and make good:-

(a) any damage it causes to the Property; and/or

(b) any deterioration to the condition of the Property that may arise from the Term Commencement Date,

provided that the Tenant shall not be in breach of this covenant if and for so long as disrepair arises due to damage caused to the Property by any of the Insured Risks and the Tenant is diligently pursuing its insurance claim and reinstating such damage

3.3.2 to notify the Landlord in writing immediately if any structural damage occurs to the Property

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<sup>10</sup> Relevant only where there is Retained Land over which rights are granted and which the Landlord is to maintain. If this clause is used a section 151 letter is likely to be required if the Landlord is a local authority procuring the works.



### 3.4 **Access of Landlord and Notice to Repair**

to permit the Landlord and all persons authorised by the Landlord (with or without equipment) upon reasonable prior notice to the Tenant (but at any time without notice in case of emergency) to enter the Property as follows:-

3.4.1 in the final three (3) years of the Term in order to take inventories of any Fixtures and Fittings to be yielded up at the end of the Term

3.4.2 at reasonable intervals during the Term in order to view and examine the state of repair and condition of the Property and to give to the Tenant or the Tenant's agent or leave on the Property notice in writing to the Tenant of all breaches of any of the tenant covenants in this Lease relating to the condition or repair of the Property ("Repair Notice") and the Tenant covenants (subject to having obtained any necessary consents to any required works, which the Tenant shall use all reasonable endeavours to obtain as soon as possible) to repair and make good the Property according to such notice and the covenants in that behalf contained in this Lease within the following time periods:-

- (a) where (b) and (c) below do not apply or where the state of repair is causing a breach of health and safety or other legislation or is causing structural damage ("Safety Breach"), the works shall be commenced within the period of 56 days after the service of the Repair Notice and shall be completed diligently thereafter;
- (b) where there is no Safety Breach, if the Tenant does not immediately have the funds to carry out such works but could complete the works within a reasonable period without requiring further funding under the Funding Agreement it shall demonstrate this to the Landlord by providing to the Landlord within fifty six (56) days of the service of the Repair Notice:-
  - (i) a statement of the maintenance budget for the Property (included within the funding already received under the Funding Agreement) and the sums expended that financial year to date on the repair and maintenance of the Property ("Funding Statement"); and
  - (ii) a programme of works setting out a reasonable time period for the works to be carried out taking into account the nature of the disrepair and the funds available

and the works shall be commenced and carried out within the periods set out in the programme of works referred to at (ii) above

- (c) where there is no Safety Breach and where the Tenant cannot demonstrate that it can carry out the works within a reasonable time under (b) above but requires to make an application ("Funding Application") to the Secretary of State for Education for funding under the Funding Agreement in order to carry out such works, the relevant section of works shall be commenced as soon as reasonably practicable after the Secretary of State for Education grants permission under the programme of works agreed pursuant to the Funding Application ("Works Programme")

and if the Tenant fails satisfactorily to comply with such notice in accordance with (a), (b) or (c) above the Landlord and all persons authorised by the Landlord are entitled at any time without notice (but without prejudice to the right

of re-entry contained in this Lease) to enter the Property with all necessary equipment to repair and make good the Property in accordance with the covenants and provisions contained in this Lease and the expense of such repairs together with all reasonable legal and surveyors' fees properly incurred in connection with this sub-clause must be repaid by the Tenant to the Landlord upon demand and on a full indemnity basis as a contractual debt

- 3.4.3 where the Tenant has served notice on the Landlord pursuant to clause 3.3.2 of the occurrence of structural damage to the Property then to permit the Landlord to enter onto the Property to view and examine the state of repair and condition of the Property
- 3.4.4 at any time during the Term to view the Property in connection with any dealing or proposed dealing (by way of sale mortgage or otherwise) with the Landlord's reversionary interest in the Property
- 3.4.5 (in circumstances only where the Landlord may have a liability under Law or under this Lease) to carry out such tests inspections and surveys as the Landlord reasonably requires
- 3.4.6 at any time during the Term to fix and retain without interference upon any suitable part or parts of the Property one or more notice boards for reletting (but in the case of reletting only within six (6) months before the Termination Date) or selling at any time the Landlord's reversionary interest in the Property
- 3.4.7 at any time during the Term to exercise any rights reserved by this Lease and to comply with any obligations of the Landlord (whether arising under this Lease or otherwise)
- 3.4.8 at reasonable intervals during the Term in order to determine whether the Tenant has complied with all its obligations in this Lease (save that, for the avoidance of doubt, the Landlord shall not be entitled to inspect the financial records of the Tenant)

provided that any exercise of the above rights by the Landlord does not constitute an action for forfeiture by the Landlord or evidence an intention to accept or effect the surrender of the Term and provided further that the exercise of the above rights by the Landlord shall not be in such a manner as materially to restrict or interrupt the operation of the school on the Property by the Tenant, shall cause as little damage as reasonably practicable and shall (save in relation to emergency access) be in accordance with the reasonable requirements of the Tenant in relation to the security of the Property and the health and safety of the students and others at the Property, and the Landlord shall make good any damage caused to the Property as soon as reasonably practicable

### 3.5 **Alterations and Additions**

- 3.5.1 not to commit any act of waste
- 3.5.2 not to erect any buildings or other structures on the Property nor make any structural or external alterations additions or variations to any structures for the time being on the Property without the Landlord's prior written consent (such consent not to be unreasonably withheld or delayed) save that the Landlord can only refuse such consent if:-

- (a) [such erection alteration addition or variation will adversely affect the Landlord's statutory obligations as a landlord or as a local authority; and/or]
- (b) such erection alteration addition or variation will have an adverse effect on the structural integrity of any structures on the Property or any part or parts of any structures on the Property; and/or
- (c) such erection alteration addition or variation will adversely affect the value of the Landlord's reversionary interest in the Property<sup>11</sup>

3.5.3 as part of the application to the Landlord for its consent pursuant to clause 3.5.2 the Tenant shall:-

- (a) submit to the Landlord adequate plans and specifications describing the proposed erection alteration addition or variation and shall consult with the Landlord on the proposed erection alteration addition or variation and shall take into account any representations that the Landlord may reasonably make in relation to the matters referred to at clause 3.5.2(a), 3.5.2(b) and 3.5.2(c);
- (b) make any necessary variations or alterations to the plans and specifications in accordance with the reasonable representations of the Landlord pursuant to sub-clause (a) above;
- (c) covenant with the Landlord as to the execution and (if it is agreed between the parties before the works are carried out that they will be reinstated at the determination of the Term) the reinstatement of any of the works as the Landlord may reasonably require

3.5.4 in relation to any works permitted pursuant to clauses 3.5.2 and 3.5.3 above to carry out all such works only in accordance with such plans and specifications as have been provided to and approved by the Landlord in writing or as have been subsequently varied in accordance with any representations of the Landlord

3.5.5 after commencing any works of erection alteration addition or variation as permitted pursuant to clauses 3.5.2 and 3.5.3 above to complete such works as soon as reasonably practicable and in any event no later than by the end of the Term

3.5.6 to carry out any works permitted by this Lease in a good and workmanlike manner as soon as reasonably practicable with good quality materials strictly in accordance with all relevant British Standards including codes of practice and the requirements and regulations of all utility companies affected by such works and so that any easements rights privileges or liberties which third parties enjoy in over or under the Property are not interfered with and that no nuisance is caused to the Landlord [or any occupiers of any part or parts of the Retained Land]

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<sup>11</sup> If alterations are to be funded by the Tenant out of its own monies, rather than under the Funding Agreement, thought will need to be given in the licence for alterations as to how clause 5.1.3 (ownership of insurance proceeds on non-reinstatement) may need to be amended. Sub-paragraph (a) will only be of relevance where the landlord is a local authority.

- 3.5.7 not to carry out any erection alteration addition or variation which hinders access to a Conduit

### 3.6 **Signs and Advertisements**

- 3.6.1 to notify the Landlord of the affixing or display on the boundaries of the Property or on the outside of the buildings on the Property of any sign (which expression includes any signboard advertisement hoarding fascia poster placard bill notice or other notification) other than signs which:-
- (a) are required by law to be affixed or displayed; or
  - (b) do not require planning permission; or
  - (c) are necessary or usual for the authorised use of the Property;
- 3.6.2 to display and maintain upon the Property notices required in relation to the Premises Acts and the Environment Acts

### 3.7 **Statutory Obligations**

- 3.7.1 to comply with all Laws (including the Premises Acts) affecting the Property the physical condition or the user of them or the use of any Fixtures and Fittings in them
- 3.7.2 as soon as reasonably practicable to give written notice to the Landlord of anything arising or being in the Property which may endanger or adversely affect health or safety and which might give rise to a duty of care imposed by common law or statute on the Landlord in favour of the Tenant or any other person
- 3.7.3 the Tenant shall comply with its obligations, requirements and duties under the Construction (Design and Management) Regulations 2007 ("CDM Regulations") in relation to any works carried out at the Property, including all requirements in relation to the provision and maintenance of a health and safety file for the Property, which the Tenant shall maintain and shall give to the Landlord on the Termination Date
- 3.7.4 the Tenant shall elect to be treated as the only client as defined under the CDM Regulations in respect of any works carried out at the Property pursuant to Regulation 8 of the CDM Regulations
- 3.7.5 the Tenant shall supply all information to the Landlord that the Landlord reasonably requires from time to time to comply with the Landlord's obligations under the CDM Regulations

### 3.8 **Yield Up**

On the Termination Date quietly to yield up the Property to the Landlord with vacant possession (subject only to any lease granted to a statutory undertaker) in accordance with the proper performance of the Tenant's covenants contained in this Lease and with all refuse and (unless the Landlord notifies the Tenant to the contrary prior to the Termination Date) all Tenant's fixtures and fittings lettering and signs put up by the Tenant duly removed

### 3.9 **Use**

- 3.9.1 not to carry on upon the Property any noisy noxious offensive or dangerous trade or occupation provided that the proper use of the Property for the purposes permitted by clause 3.9.3 shall not be a breach of this clause
- 3.9.2 not to use the Property for any illegal or immoral purpose
- 3.9.3 without prejudice to the preceding covenants in this clause not to use the Property otherwise than:-
  - (a) for the purposes of the provision of educational services; and
  - (b) for community, fundraising and recreational purposes which are ancillary to the use permitted under clause (a)

### 3.10 **Planning and Environmental Matters**

- 3.10.1 to provide to the Landlord copies of any plans specifications applications consents and permissions relating to applications under the Planning Acts and to deal with any queries that the Landlord acting reasonably may raise
- 3.10.2 so often as occasion requires to obtain all consents and permissions required to authorise the use from time to time of the Property and the carrying out of any development (within the meaning of the Planning Acts) on the Property
- 3.10.3 to pay and satisfy any charges that may hereafter be imposed under the Planning Acts in respect of the carrying out or maintenance of any such development
- 3.10.4 to give written notice to the Landlord of the granting or refusal of any planning permission within twenty (20) days after its receipt by the Tenant
- 3.10.5 if the Tenant receives any compensation because of any restriction placed upon the use of the Property under or by virtue of the Planning Acts then if this Lease is determined by surrender or re-entry immediately to make such provision as is just and equitable for the Landlord to receive due benefit from such compensation

### 3.11 **Notices**

as soon as reasonably practicable following receipt to provide to the Landlord a copy of any communication or notice which may give rise to a liability on the part of the Landlord or which may adversely affect the value or nature of the Landlord's interest in the Property

### 3.12 **Dealings**

- 3.12.1 not to part with or share the possession or occupation of the whole or any part or parts of the Property Provided that the Tenant may share occupation of the whole or part of the Property with a proprietor or proposed proprietor of an Academy or a body or individual providing services or facilities which are within the uses referred to in clause 3.9.3 where no relationship of landlord and tenant arises as a result of such occupation

- 3.12.2 not to hold the Property or any part or parts of the Property or this Lease on trust for another
- 3.12.3 subject to sub-clause 3.12.4 not to assign or transfer any part or parts or the whole of the Property
- 3.12.4 the Tenant is permitted to assign or transfer the whole of the Property to:-
- (a) the Relevant Secretary of State a proprietor or proposed proprietor of an Academy or a successor charitable or public body without the consent of the Landlord where the Secretary of State for Education has given approval in writing to such an assignment or transfer; [and
  - (b) any other party with the written consent of the Landlord (not to be unreasonably withheld or delayed;]<sup>12</sup>
- 3.12.5 not to underlet any part or parts or the whole of the Property for a term (including any option to renew) in excess of ten years without the Landlord's written consent (not to be unreasonably withheld or delayed)<sup>13</sup>

### 3.13 **Rights of Light and Encroachments**

not to obstruct any windows or lights belonging to the Property nor to permit any encroachment upon the Property which might be or become a detriment to the Landlord and in case any encroachment is made or attempted to be made to give immediate notice of it to the Landlord

### 3.14 **Indemnity**

- 3.14.1 to keep the Landlord indemnified against all actions proceedings costs claims demands and expenses in respect of any liability or alleged liability in respect of any injury to or the death of any person (however the same may be caused) damage to any property moveable or immovable Laws (including the Premises Acts the Planning Acts [and the Environment Acts]) the infringement disturbance or destruction of any right easement or privilege and every other liability arising directly or indirectly out of any defect in or the condition or use of the Property or anything done or omitted to be done on them or any breach of the Tenant's obligations in this Lease
- 3.14.2 to notify the Landlord in writing immediately upon any of the events or matters referred to in sub-clause 3.14.1 occurring or arising

### 3.15 **Costs**

to pay to the Landlord on demand all reasonable and proper costs charges and expenses (including legal costs and surveyors' fees and other professional fees and any charges and/or commission payable to a bailiff) losses and liabilities which may be incurred by the Landlord:-

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<sup>12</sup> The wording in square brackets may need to be deleted depending upon what is agreed in heads of terms

<sup>13</sup> The question of limiting underlettings will be project specific

- 3.15.1 in connection with the preparation and service of any notice (including any schedule of dilapidations) served under this Lease relating to the repair or condition of the Property whether during the Term or within three (3) months after the Termination Date
- 3.15.2 in connection with any application by the Tenant for any licence approval permission or consent required under the terms of this Lease whether or not the application is withdrawn or the licence approval permission or consent is refused (save where refused unreasonably contrary to the terms of this Lease) or is granted (save where granted subject to conditions declared by a court of competent jurisdiction to be unreasonable)
- 3.15.3 in or in contemplation of claiming or recovering any arrears of Rent or rents or in connection with or arising out of any breach by the Tenant of any of the Tenant's obligations hereunder whether or not the Landlord proves such matters by proceedings in any Court

### **3.16 VAT**

- 3.16.1 to pay VAT upon the Rent and upon any other sums payable by the Tenant under this Lease and in relation to any other supply of goods or services (within the meaning of section 5 and schedule 4 of the Value Added Tax Act 1994) made by the Landlord to the Tenant under this Lease so far as such tax is from time to time properly chargeable upon the same and in relation to taxable supplies made by the Landlord to the Tenant. The Landlord must deliver to the Tenant a valid VAT invoice addressed to the Tenant
- 3.16.2 where the Tenant has agreed to reimburse or indemnify the Landlord in respect of any payment made by the Landlord under the terms of or in connection with this Lease also to reimburse any VAT properly paid by the Landlord on such payment unless the VAT is actually recovered by the Landlord as an input in relation to supplies to the Landlord

### **3.17 Interest on Arrears**

if any sums from time to time payable by the Tenant to the Landlord under this Lease are not paid to the Landlord within fourteen (14) days of the date when such sums became due (whether demanded or not) or are tendered to the Landlord but the Landlord reasonably refuses to accept them so as to preserve any rights the Landlord has to pay to the Landlord (without prejudice to any other right remedy or power available to the Landlord) interest on such sums (both before and after any judgement) from the date when such sums first became due until the date of actual payment inclusive of both dates at the Interest Rate

### **3.18 Landlord's Property**

to observe and perform the matters contained or referred to in the documents listed in Schedule 4 relating to the Landlord's Property so far as they are still subsisting and capable of taking effect and relate to the Property and to keep the Landlord indemnified against all actions proceedings costs claims demands and expenses relating to them

## **4. LANDLORD'S COVENANTS**

The Landlord covenants with the Tenant:-

#### 4.1 **Quiet Enjoyment**

that the Tenant may peaceably and quietly hold and enjoy the Property during the Term without any interruption or disturbance by the Landlord or any person rightfully claiming through or under the Landlord

#### 4.2 **[Planning Agreements]**

At the request of the Tenant to enter into and to consent to the Tenant entering into any Planning Agreement relating to the Property Provided that if the Landlord is requested to enter into any Planning Agreement the Tenant shall (and the Landlord shall give to the Tenant all rights necessary to enable the Tenant to) observe and perform all the obligations on the part of the Landlord and the landowner contained in the Planning Agreement and the Tenant shall indemnify the Landlord in respect of all such obligations on the Landlord's part and all reasonable and proper costs relating thereto]<sup>14</sup>

### 5. **INSURANCE**

#### 5.1 The Tenant covenants with the Landlord:-

- 5.1.1 to keep the Property insured with a reputable insurance office against loss or damage by the Insured Risks in the sum the Tenant is advised represents the Reinstatement Value of the Property from time to time
- 5.1.2 to pay the premiums for insurance promptly as they become due and maintain in force the policies of insurance on the Property
- 5.1.3 following the incidence of damage to or destruction of the Property and subject to receipt of all necessary consents licences permissions and the like to apply the proceeds of the policy of the insurance received for those purposes in rebuilding and reinstating the Property (provided that this covenant should be satisfied if the Tenant provides premises not necessarily identical to the Property as the same existing prior to such damage or destruction occurring) as soon as may be reasonably practicable provided that in case it shall be impossible or impracticable to reinstate the Property in accordance with the provisions of this clause 5 within three (3) years of the date of damage or destruction occurring either party may serve written notice on the other to terminate this Lease and upon service of such notice this Lease shall immediately cease and determine but without prejudice to the rights of either party against the other in respect of any prior breach of any obligation contained in this Lease and any monies received under the said policy of insurance whether before or after the termination of this Lease shall [belong to the Tenant absolutely] [be held on trust for the Landlord and the Tenant in proportion to their respective interests in the Property at the time of the damage or destruction, as agreed between the Landlord and Tenant or failing agreement as determined in accordance with clause 12]<sup>15</sup>

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<sup>14</sup> Include this provision where the landlord is not a local authority. Consider its inclusion even where the landlord is a local authority

<sup>15</sup> Note that default position should be that insurance monies belong to the Tenant. If this is rejected and the Academy Trust is paying for any buildings, or does so in the future, the parties should agree equitable provisions for a split of the insurance proceeds in the event of non-reinstatement.



- 5.1.4 to produce to the Landlord a copy of the insurance policy whenever reasonably requested and the receipt for the last or other evidence of renewal and up to date details of the amount of cover (but no more often than once in any period of twelve (12) months in both cases)
- 5.1.5 not to knowingly do anything whereby any policy of insurance relating to the Property may become void or voidable
- 5.2 The Tenant further covenants with the Landlord to insure against liability in respect of property owners' and third party risks

## 6. **PROVISOS**

### 6.1 **Re-Entry**

- 6.1.1 Where there occurs a breach by the Tenant of clause 3.9 and/or 5.1.2 of this Lease and the Landlord has served written notice specifying such breach and the remedial action required by the Tenant and if within a reasonable period (taking account of the breach complained of) the Tenant has not taken steps to remedy such breach or the Tenant is dissolved or struck off or removed from the Register of Companies or otherwise ceases to exist then it is lawful for the Landlord or any person authorised by the Landlord at any time afterwards to re-enter upon the Property or any part of it in the name of the whole and thereupon the Term absolutely determines without prejudice to any right of action of the Landlord in respect of any breach of the Tenant's obligations contained in this Lease
- 6.1.2 The Landlord may not exercise the right of re-entry under clause 6.1.1 unless it has given prior notice to the Secretary of State for Education of the breach in respect of which there is a claim against the Tenant and such notice is to contain sufficient detail of the circumstances of the breach to allow the Secretary of State for Education the opportunity to remedy the breach ("**the Landlord's Notice**")
- 6.1.3 The Secretary of State for Education shall within 60 days of receipt of the Landlord's Notice serve written notice ("**Acceptance Notice**") either agreeing or refusing to remedy the breaches specified in the Landlord's Notice and (if applicable) indicating an intention for this Lease to be assigned in accordance with the terms of this Lease
- 6.1.4 In the event that the Secretary of State for Education fails to serve an Acceptance Notice within 60 days of receipt of the Landlord's Notice it will be deemed to refuse to remedy the breaches specified in the Landlord's Notice, and the Landlord may exercise the right of re-entry under clause 6.1.1
- 6.1.5 In the event that the Secretary of State for Education serves an Acceptance Notice the Secretary of State for Education will be deemed to be agreeing to remedy all the breaches specified in the Landlord's Notice or take or procure an assignment of this Lease in accordance with the terms of this Lease
- 6.1.6 Following service of an Acceptance Notice the Secretary of State for Education (as appropriate) will have a reasonable length of time (or such longer period as may be agreed between the parties acting reasonably) to:

- (a) take steps to remedy the breaches specified in the Landlord's Notice to the Landlord's reasonable satisfaction and (if applicable); or
- (b) accept or procure an assignment of the residue of the term of this Lease in accordance with its terms

during which time the Landlord will not be able to exercise the right of re-entry under clause 6.1.1

- 6.1.7 If the Secretary of State for Education (as appropriate) fails to remedy the breaches to the Landlord's reasonable satisfaction or accept or procure an assignment of this Lease in accordance with the terms of this Lease in the time period specified in clause 6.1.6 the Landlord may exercise the right of the re-entry under clause 6.1.1
- 6.1.8 Any dispute between the Landlord and the Tenant about whether the breaches specified in the Landlord's Notice have been adequately remedied or whether an assignment has been accepted or procured in accordance with the terms of this Lease are to be dealt with pursuant to clause 11 of this Lease

## 6.2 **Landlord's Rights on Forfeiture**

The Landlord's right to forfeit this Lease is not affected by any acceptance of or demand for rent or any action which would affirm this Lease by the Landlord with knowledge of a breach of any of the Tenant's covenants contained in this Lease and the Tenant is not in any proceedings for forfeiture or otherwise entitled to rely upon any such acceptance demand or affirmation as aforesaid as a defence provided that this provision only applies to any acceptance of or demand for rent or affirmation of this Lease made during such period as may in all the circumstances be reasonable for enabling the Landlord to conduct negotiations with the Tenant for remedying the breach

## 6.3 **Service of Notices**

Section 196 of the Law of Property Act 1925 as amended by the Recorded Delivery Service Act 1962 applies to all notices which may require to be served under the terms of this Lease except that section 196 is deemed to be amended as follows:-

- 6.3.1 the final words of section 196(4) "and that service ..... be delivered" are deleted and there is substituted "and that service is deemed to have been made on the third working day after the registered letter has been posted" and "working day" means any day from Monday to Friday (inclusive) other than Christmas Day Good Friday and any statutory or bank holiday;
- 6.3.2 any notice or document is also sufficiently served if sent by telephonic facsimile transmission to the party to be served and that service is deemed to be made on the day of transmission if transmitted before 4.00pm on a working day but otherwise on the next following working day;
- 6.3.3 if the party to whom any notice to be served consists of more than one person the service of notice upon one of such persons constitutes service upon all of them;
- 6.3.4 any notice to be given by a party may be given by that party's solicitor or agent and when addressed to a party is not rendered invalid by reason of that party

having died become insolvent or changed name whether or not the party serving notice is aware of the fact

**6.4 [Exclusion of Section 62 LPA]**

The operation of section 62 of the Law of Property Act 1925 is excluded from this Lease and the only rights granted to the Tenant are those expressly set out in this Lease and the Tenant is not by virtue of this Lease deemed to have acquired or be entitled by any means whatsoever (other than express grant) to any easement from or over the Retained Land or affecting any other land or premises now or at any time after the date of this Lease belonging to the Landlord and not comprised in this Lease]<sup>16</sup>

**6.5 Governance**

6.5.1 This Lease is governed by English law

6.5.2 The parties submit to the exclusive jurisdiction of the High Court of Justice in England

**6.6 Agreement to Exclude Sections 24 to 28 of the 1954 Act**

6.6.1 The Landlord and the Tenant agree pursuant to section 38A(1) of the 1954 Act that the provisions of sections 24 to 28 (inclusive) of the 1954 Act are excluded in relation to the tenancy created by this Lease

6.6.2 The Tenant confirms that:-

- (a) the Landlord served on the Tenant a notice (the "Notice") applicable to the tenancy created by this Lease on [ ] in accordance with section 38A(3)(a) of the 1954 Act; and
- (b) the Tenant or a person duly authorised by the Tenant made a declaration or a statutory declaration in relation to the Notice on [ ] in accordance with the requirements of section 38A(3)(b) of the 1954 Act

before the Tenant entered into this Lease or (if earlier) became contractually bound to do so.

**6.7 Termination**

6.7.1 This Lease shall automatically determine on the Funding Termination Date in circumstances where there is no other Funding Agreement in existence unless either:

- (a) the Landlord has received prior notice in writing from the Secretary of State for Education of an intention for this Lease to be assigned in accordance with the terms of this Lease; or
- (b) this Lease has been assigned in accordance with the terms of this Lease

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<sup>16</sup> Delete where there is no Retained Land of the Landlord

- 6.7.2 This Lease shall automatically determine on the End Date if by that date this Lease has not been assigned in accordance with the terms of this Lease
- 6.7.3 The Tenant shall give written notice to the Landlord as soon as possible after becoming aware that the Funding Agreement may be liable to termination, including where a notice terminating the Funding Agreement is served on the Tenant, and the notice served on the Landlord shall specify the date (or likely date) of termination of the Funding Agreement
- 6.7.4 The Tenant shall give written notice to the Landlord at the same time as the Tenant serves any notice terminating the Funding Agreement and such notice shall specify the date (or likely date) of termination of the Funding Agreement.
- 6.7.5 On the termination of this Lease under clause 6.7.1 or 6.7.2 everything contained in the Lease ceases and determines but without prejudice to any claim by either party against the other in respect of any antecedent breach of any obligation contained in the Lease

## **7. AGREEMENT ON ENVIRONMENTAL LIABILITIES**

Notwithstanding any other provisions in this Lease, the Landlord and Tenant agree that:

- 7.1 Any liability under Environmental Law (including, without limitation, any liability under the Contaminated Land Regime) arising in respect of Hazardous Substances in, on, under or emanating from the Property, on or before the date of this Lease, shall be the sole responsibility of the Landlord
- 7.2 This clause 7 constitutes an agreement on liabilities under the Department for Environment, Food and Rural Affairs' statutory guidance on the Contaminated Land Regime
- 7.3 If the Enforcing Authority serves a notice under the Contaminated Land Regime on either party, either party may produce a copy of this clause 7 to any Enforcing Authority or court for the purposes of determining liability under the Contaminated Land Regime, regardless of any confidentiality agreement that may exist between the parties relating to this Lease or any of its provisions
- 7.4 Neither party shall challenge the application of the agreement on liabilities set out in this clause]<sup>17</sup>

## **8. LANDLORD'S POWERS**

- 8.1 The Landlord enters into this Lease pursuant to its powers under sections 111, 120, 122 and 123 of the Local Government Act 1972 the Education Act 1996 Section 2 of the Local Government Act 2000 and all other powers so enabling and warrants that it has full power to enter into this Lease and to perform all obligations on its part herein contained

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<sup>17</sup> The inclusion of this clause will be a matter for the parties to negotiate based upon the circumstances surrounding the transaction

8.2 Nothing in this Lease shall fetter the Landlord in the proper performance of its statutory functions]<sup>18</sup>

9. **NEW TENANCY**

This Lease is a new tenancy for the purposes of the 1995 Act

10. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT**

A person who is not a party to this Lease has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Lease but this does not affect any right or remedy of a third party which exists or is available apart from that Act

11. **CHARITY**

[The Property will as a result of this Lease be held by [Academy Trust] an exempt charity] [The Property will as a result of this Lease be held by or in trust for [Academy Trust] a non-exempt charity and the restrictions on disposition imposed by sections 117 to 121 of the Charities Act 2011 will apply to the Property (subject to section 117 (3) of that Act)]

12. **DISPUTE RESOLUTION PROCEDURE**

If the parties fail to agree on any of the provisions or terms of this Lease then either party may refer the matter to arbitration

13. **TENANT'S BREAK RIGHT**

13.1 Provided that the Tenant produces to the Landlord evidence of the consent of the Secretary of State for Education to it doing so the Tenant may terminate this lease on any Break Date by serving a Break Notice on the Landlord at least nine months before the Break Date as stated in the Break Notice

13.2 The Break Notice shall state the Break Date in respect of which it is served

13.3 Following service of the Break Notice, this lease shall terminate on the Break Date specified in the Break Notice

13.4 Termination of this lease pursuant to this clause shall be without prejudice to any right or remedy of either party in respect of any antecedent breach of the covenants contained in this lease

**EXECUTED AS A DEED** by the parties on the date which first appears in this Lease

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<sup>18</sup> Relevant only where the landlord is a local authority

EXECUTED (but not delivered until the )  
date hereof) AS A DEED by affixing the )  
Common Seal of [LOCAL AUTHORITY] in )  
the presence of:- )

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Authorised Signature

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Date

EXECUTED (but not delivered until the )  
date hereof) AS A DEED by affixing the )  
Common Seal of [ACADEMY TRUST] in )  
the presence of:- )

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Director

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Secretary

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Date

## SCHEDULE 1

### **Part 1 – The Property**

ALL THAT land and buildings known as [ ] shown edged red on the Plan and including the following so far as the same may exist at any time during the Term:-

- (a) all Conduits exclusively serving such premises; and
- (b) all Fixtures and Fittings (save for those that belong to the Tenant)

## **SCHEDULE 1**

### **[Part 2 – The Retained Land**

The land and premises shown edged blue on the Plan in the ownership of the Landlord at adjacent or near the Property]<sup>19</sup>

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<sup>19</sup> Only applicable where land is being retained by Landlord.



## **SCHEDULE 2 - RIGHTS GRANTED<sup>20</sup>**

### **1. ACCESS**

The right for the Tenant and the Tenant's employees agents and visitors in common with the Landlord and all others from time to time so entitled to pass and repass with or without vehicles over and along the roadway at the Retained Land shown coloured [ ] on the Plan for the purpose of obtaining access to and egress from the Property but not for any other purpose whatsoever

### **2. SERVICES**

The right in common with the Landlord and all others from time to time so entitled and with the prior written consent of the Landlord (such consent not to be unreasonably withheld or delayed save as provided below) for the Tenant to connect into (in so far as there are no connections) and to pass Amenities to and from the Property through Conduits now or at any time during the Term laid in under or upon the Retained Land PROVIDED that the Landlord has the right at any time or times during the Term:-

2.1 to refuse consent for the Tenant to connect into any Conduits if in the reasonable opinion of the Landlord the Conduits are insufficient to bear the extra load which would be likely to result from the proposed connection by the Tenant; and

2.2 to divert or vary the positions of the Conduits upon giving reasonable prior notice to the Tenant (except in case of emergency) (which interruption the Landlord must however seek to minimise so far as is reasonably possible)

### **3. SUPPORT**

A right of support and protection to the Property from the Retained Land

### **4. CAR PARKING**

In common with the Landlord and all others from time to time entitled the [exclusive] right for the Tenant the Tenant's employees agents licensees and visitors to use the [ ] car parking spaces numbered [ ] within the area shown coloured [ ] on the Plan (or any alternative spaces/area no less materially convenient to the Tenant which the Landlord may from time to time in writing specify) for the parking of not more than [ ] motor cars but not for any other purpose whatsoever and only within the designated spaces

### **5. ACCESS TO RETAINED LAND**

The right upon giving reasonable prior written notice (except in case of emergency) to the Landlord and all others from time to time so entitled to enter only so far as is strictly necessary upon the Retained Land for the purpose of inspecting and executing repairs to or on the Property subject to the Tenant:-

5.1 causing as little damage disturbance or inconvenience as possible to the Landlord and all others from time to time so entitled; and

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<sup>20</sup> This schedule is only applicable if landlord is retaining land or has other land over which rights need to be granted. further rights may need to be considered on a site specific basis.

- 5.2 making good as soon as reasonably practicable to the reasonable satisfaction of the Landlord and to all others from time to time so entitled all damage caused by the exercise of this right

### **SCHEDULE 3 - RIGHTS EXCEPTED AND RESERVED<sup>21</sup>**

#### **1. SERVICES**

The right to connect into and pass Amenities to and from the Retained Land and any other adjoining or neighbouring property of the Landlord in and through Conduits now or at any time during the Term laid in or upon the Property together with the right to enter upon the Property upon giving reasonable prior notice to the Tenant (except in case of emergency) in order to lay inspect cleanse renew and maintain the Conduits the person exercising such right causing as little damage disturbance or inconvenience as possible to the Tenant or the business being carried on upon the Property and making good as soon as reasonably practicable any damage occasioned to the Property by the exercise of this right to the reasonable satisfaction of the Tenant

#### **2. ACCESS TO PROPERTY**

The right upon giving reasonable prior notice to the Tenant (except in case of emergency) to enter upon the Property for the purposes of:-

- 2.1 inspecting and executing repairs additions alterations and other works to or on the Retained Land or to any Conduits within the Property; and
- 2.2 the exercise of the rights powers privileges and permissions conferred or granted under the covenants and provisions of this Lease;

the person exercising such right causing as little damage disturbance or inconvenience as reasonably possible to the operation of the school on the Property and making good as soon as reasonably practicable to the Tenant's reasonable satisfaction any damage to the Property caused by the exercise of this right]

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<sup>21</sup> This schedule is only applicable if landlord is retaining land or has other land over which rights need to be granted. further rights may need to be considered on a site specific basis.

#### **SCHEDULE 4 - LANDLORD'S PROPERTY**

All that property comprised in title number [ ] together with all entries noted thereon and all covenants, rights, easements, agreements and leases subsisting or which are capable of subsisting at the Term Commencement Date